

AMENDED IN SENATE MAY 10, 2005
AMENDED IN SENATE APRIL 19, 2005
AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 564

Introduced by Senator Torlakson

February 18, 2005

An act to amend Section 30166 of, and to add Article 4 (commencing with Section 30133) to Chapter 2 of Part 13 of Division 2 of, the Revenue and Taxation Code, relating to taxation, ~~and~~ making an appropriation therefor, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 564, as amended, Torlakson. Cigarette and tobacco products taxes: California Healthy Children Trust Fund.

(1) The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99), and the California Families and Children Act of 1998 (Proposition 10).

This bill would, commencing January 1, 2006, impose an additional tax on the distribution of cigarettes at the rate of \$0.05 for each cigarette distributed. The revenues collected from these additional taxes would be deposited in the California Healthy Children Trust Fund that would be created by this bill.

This bill, for the 2005-06 fiscal year and each fiscal year thereafter, would continuously appropriate the moneys in the California Healthy Children Trust Fund, as provided. The bill would also require that, for the 2006-07 fiscal year and each fiscal year thereafter, a prescribed

amount of moneys from the fund be deposited in the Cigarette and Tobacco Products Surtax Fund, the Breast Cancer Fund, and the California Children and Families Trust Fund, to reimburse any losses that occur as a result of the imposition of the tobacco products tax that would be established under the bill.

(2) Existing law requires that stamp and meter register settings be sold at their denominated values, less 0.85%, to licensed distributors.

This bill would exclude from that provision the additional taxes on cigarettes and tobacco products proposed by this bill.

(3) By imposing a new tax, this bill would result in a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 4 (commencing with Section 30133) is
2 added to Chapter 2 of Part 13 of Division 2 of the Revenue and
3 Taxation Code, to read:

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5 Article 4. Tobacco Products Excise Tax

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7 30133. In addition to the taxes imposed upon the distribution
8 of cigarettes by Article 1 (commencing with Section 30101),
9 Article 2 (commencing with Section 30121), Article 3
10 (commencing with Section 30131), and any other taxes in this
11 chapter, there shall be imposed an additional excise tax upon
12 every distributor of cigarettes at the rate of five cents (\$0.05) for
13 each cigarette that is distributed on and after January 1, 2006.

14 30135. (a) Every dealer and wholesaler, for the privilege of
15 holding or storing cigarettes for sale, use, or consumption, shall
16 pay a floor stock tax for each cigarette in his or her possession or
17 under his or her control in this state at 12:01 a.m. on January 1,
18 2006, at the rate of five cents (\$0.05) for each cigarette.

(b) Every dealer and wholesaler shall file a return with the board on or before February 15, 2006, on a form prescribed by the board, showing the number of cigarettes in his or her possession or under his or her control at 12:01 a.m. on January 1, 2006. The amount of tax shall be computed and shown on the return.

(c) Every licensed cigarette distributor, for the privilege of distributing cigarettes and for holding or storing cigarettes for sale, use, or consumption, shall pay a cigarette indicia adjustment tax for each California cigarette tax stamp that is affixed to any package of cigarettes and for each unaffixed California cigarette tax stamp in his or her possession or under his or her control at 12:01 a.m. on January 1, 2006, at the following rates:

(1) One dollar and twenty-five cents (\$1.25) for each stamp bearing the designation "25."

(2) One dollar (\$1.00) for each stamp bearing the designation "20."

(3) Fifty cents (\$0.50) for each stamp bearing the designation "10."

(d) Every licensed cigarette distributor shall file a return with the board on or before February 15, 2006, on a form prescribed by the board, showing the number of stamps described in paragraphs (1), (2), and (3) of subdivision (c). The amount of tax shall be computed and shown on the return.

(e) The taxes required to be paid by this section are due and payable on or before February 15, 2006. Payments shall be made by remittances payable to the board and the payments shall accompany the forms required to be filed by this section.

(f) Any amount required to be paid by this section that is not timely paid shall bear interest at the rate and by the method established pursuant to Section 30202 from February 15, 2006, until paid, and shall be subject to determination, and redetermination, and any penalties provided with respect to determinations and redeterminations.

30136. (a) Except for payments of refunds made pursuant to Article 1 (commencing with Section 30361) of Chapter 6, and reimbursement of the State Board of Equalization for expenses incurred in the administration and collection of the excise taxes imposed by this article, all moneys raised pursuant to the taxes imposed by this article shall be transmitted by the board to the

1 Treasurer for deposit in the California Healthy Children Trust
2 Fund, which is hereby created in the State Treasury.

3 (b) For the 2005-06 fiscal year and each fiscal year thereafter,
4 notwithstanding Section 13340 of the Government Code, the
5 moneys deposited in the California Healthy Children Trust Fund
6 are hereby continuously appropriated for expenditure to fund the
7 following programs. These funds shall be allocated according to
8 the following formula:

9 (1) Thirty-three percent shall be allocated to fund training,
10 education, nutrition, and physical activity.

11 (2) Eleven percent shall be allocated for preventative health
12 programs designed for children one through five years of age.

13 (3) Eight percent shall be allocated for preventative health
14 programs designed for children six through seven years of age.

15 (4) Six percent shall be allocated for preventative health
16 programs designed for children eight through 10 years of age.

17 (5) Twenty-two percent shall be allocated to the California
18 Tobacco Control Program for the implementation of a
19 state-of-the-art tobacco control program. It is the intent of the
20 Legislature to appropriate some of the resources provided in this
21 section to tailor smoking cessation programs to the workplace
22 setting, especially those workplaces that, due to the
23 socioeconomic status of the workforce, exhibit increased rates of
24 tobacco use.

25 (6) Nine and one-half percent shall be allocated to fund
26 programming in after-school programs targeted towards the
27 prevention of childhood obesity and diabetes, including, but not
28 limited to, physical activity and nutrition.

29 (7) Nine and one-half percent shall be allocated to
30 community-based programs to match funds raised locally for the
31 research, prevention, and treatment of pediatric AIDS, obesity,
32 diabetes, and childhood cancers.

33 (8) One percent shall be allocated to fund research and the
34 prevention of other cancers, including, but not limited to, lung
35 cancer.

36 (c) (1) The State Board of Equalization shall determine within
37 one year of the enactment of this article the effect that additional
38 taxes imposed on cigarettes pursuant to this article has had on the
39 consumption of cigarettes in this state. To the extent that a
40 decrease in consumption is determined by the State Board of

Equalization to be the direct result of additional taxes imposed by this act, the State Board of Equalization shall determine the fiscal effect that the decrease in consumption has had on programs funded pursuant to the Cigarette and Tobacco Products Surtax Fund, established pursuant to Section 30122, the Breast Cancer Fund, established pursuant to Section 30461.6, and the California Children and Families Trust Fund, established pursuant to Section 30131.

(2) For the 2006-07 fiscal year and each fiscal year thereafter, the State Board of Equalization shall determine the amount of the decrease in revenue available to the funds and programs described in paragraph (1) that is the direct result of the imposition of the tax under this article. This amount shall be transferred from the California Healthy Children Trust Fund and deposited in the Cigarette and Tobacco Products Surtax Fund, the Breast Cancer Fund, and the California Children and Families Trust Fund, as appropriate, at any time it is determined necessary by the State Board of Equalization to reimburse revenue losses that are a consequence of this article.

SEC. 2. Section 30166 of the Revenue and Taxation Code is amended to read:

30166. (a) Except as provided in subdivision (b), stamps and meter register settings shall be sold at their denominated values, less 0.85 percent, to licensed distributors.

(b) Stamps and meter register settings for the taxes imposed pursuant to Article 4 (commencing with Section 30133) of Chapter 2 shall be sold at their denominated values to licensed distributors.

(c) Payment for stamps or meter register settings shall be made at the time of purchase, provided that a licensed distributor, subject to the conditions and provisions of this article, may be permitted to defer payments therefor.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because of the rising state costs for the provision of health care for diseases and illnesses that are associated with physical inactivity and obesity, it is necessary that this act, which will

- 1 *provide education and funding to promote physical activity and*
- 2 *proper nutrition, take effect immediately.*

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